

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MONSANTO COMPANY and
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

v.

E. I. DU PONT DE NEMOURS AND CO. and
PIONEER HI-BRED INTERNATIONAL, INC.,

Defendants.

Case No. 4:09-cv-0686 (ERW)

**DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT OF COUNT NINE
FOR INVALIDITY OF THE '247 PATENT CLAIMS RECITING SEQ ID NO: 70**

Pursuant to Fed. R. Civ. P. 56, Defendants E. I. du Pont de Nemours and Co. and Pioneer Hi-Bred International, Inc. (collectively, "Defendants") move for partial summary judgment on Count Nine of the Second Amended Counterclaims, declaring as a matter of law that claims 84, 103-108, 115-119, 122-125, and 128-130 of U.S. Patent No. RE39,247 are invalid under 35 U.S.C. § 251. The grounds supporting this Motion are set forth in the accompanying Memorandum in Support. Defendants also file concurrently herewith, pursuant to E.D. Mo. Local Rule 4.01(E), their Statement of Uncontroverted Material Facts in support of their Motion.

Dated: March 19, 2012

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on March 19, 2012, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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